

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff/Respondent,

Civil Case No. 18-13104

v.

Criminal Case No. 12-20843

Donald Steven Reynolds,

Sean F. Cox

United States District Court Judge

Defendant/Petitioner.

/

ORDER GRANTING
THE GOVERNMENT'S MOTION TO STRIKE

Defendant/Petitioner Donald Steven Reynolds was convicted of child pornography offenses following a jury trial and his conviction and sentence were affirmed on direct appeal.

On September 28, 2018, Reynolds filed a form Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody (ECF No. 199 at Page ID 3890-3900) wherein he asserted the following four grounds for relief:

- 1) "Mr. Reynolds' Right To Due Process Was Violated Where The Prosecution Knowingly Presented False Testimony" (Ground One);
- 2) "Mr. Reynolds' Right To Due Process Was Violated Where The Prosecutor's Comments On Facts Not In Evidence Coupled With The Misrepresentation Of The Evidence Deprived Him Of A Fair Trial" (Ground Two);
- 3) "Mr. Reynolds Was Denied A Fair Trial, Where Counsel Rendered Ineffective Assistance Of Counsel By Failing To Adequately Investigate The Law And Facts Of The Case To Prepare A Viable Defense" (Ground Three); and
- 4) "Mr. Reynolds Was Deprived A Fair Trial, Where Counsel Abandoned His Loyalty To Reynolds, And Entirely Failed To Subject The

Government's Case To Meaningful Adversarial Testing" (Ground Four). (*Id.*).

Along with his form § 2255 Motion, Reynolds filed a supporting brief that consists of seventy-six pages, doubled-spaced, with 12-point font.

Thereafter, the Government filed a motion asking the Court to strike Reynolds's over-sized brief and order him to file a brief of no more than twenty-five pages in length, in compliance with the applicable local rules. (ECF No. 203).

Reynolds opposes the motion, asserting that his non-compliance with the page limitations was unintentional. Reynolds also asserts that he has limited time in the prison law library, and has to use a typewriter without memory, suggesting that it may take some time for him to file a compliant brief.

The Court finds that oral argument on the pending motion is not necessary and shall rule without a hearing.

Having considered the Government's motion, Reynolds's brief opposing it, and Reynolds's over-sized brief, the Court hereby **GRANTS** the Government's Motion to Strike. Pursuant to *Martinez v. United States*, 865 F.3d 842 (6th Cir. 2017) and Local Rule 7.1 of the Local Rules of the Eastern District of Michigan this Court **ORDERS** as follows:

- 1) The Court **shall not consider** the 76-page brief that Reynolds filed in support of the four grounds for relief set forth in his form § 2255 Motion;
- 2) No later than **March 15, 2019**, in support of the four grounds for relief set forth in his pending form § 2255 motion, Reynolds may file either:
 - A) A brief of no more than twenty-five (25) pages, doubled-spaced, with 14-point font; or
 - B) A brief of no more than twenty (20) pages, doubled-spaced, with

12-point font.¹

- 3) No later than **May 15, 2019**, the Government shall file a response brief of no more than 25 pages, doubled-spaced, with 14-point font; and
- 4) No later than **June 17, 2019**, Reynolds may file either:
 - A) A brief of no more than seven (7) pages, doubled-spaced, with 14-point font; or
 - B) A brief of no more than five (5) pages, doubled-spaced, with 12-point font.

IT IS SO ORDERED.

Dated: January 15, 2019

s/Sean F. Cox

Sean F. Cox

U. S. District Judge

I hereby certify that on January 15, 2019, the foregoing document was served on counsel of record via electronic means and upon Donald Reynolds via First Class mail at the address below:

Donald Steven Reynolds #47864039
ELKTON FEDERAL CORRECTIONAL INSTITUTION
Inmate Mail/Parcels
P.O. BOX 10
LISBON, OH 44432

s/J. McCoy

Case Manager

¹The Court is giving Reynolds this option as a courtesy, in the event the typewriter he has access to does not have 14-point font.